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MESSAGE  
of  
GOV. JOSEPH K. TOOLE  
to the  
TENTH LEGISLATIVE ASSEMBLY  
of the  
STATE OF MONTANA

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# Governor's Message

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Mr. President and Members of the Tenth Legislative Assembly:

We meet again as representatives of two co-ordinate and inter-dependent departments of the State government to perform our respective duties under the Constitution.

Harmonious action upon our part will no doubt result in great benefit to the State, not only in the initiation of new legislation, but in the modification of laws now upon our statutes, to meet those requirements which observation and experience have demonstrated to be necessary for the public good.

Our affairs, as a whole, are in a satisfactory condition. The development of our varied resources goes steadily on. Another transcontinental railroad is being built through out State. Those who have been best informed as to our possibilities are confessing daily their surprise at the new elements of enduring wealth which the ingenuity and industry of our citizens have brought forth. We are realizing now as never before the great advantages which this State offers to the intelligent farmer.

But in this progressive age, where the future opens up such a wide field for better efforts, it is folly to be content with the past or present. Let us, therefore, to the extent of our opportunity, improve our condition by wise and patriotic legislation.

Obedient to the Constitution, I now submit to you such suggestions and recommendations as to me seem advisable, reserving for a future communication a statement of the financial condition of the State up to December 31, 1906, together with an estimate of the amount of money required to be raised by taxation for all purposes of the State.

### **PRIMARY NOMINATION LAW.**

The primary nomination law passed at the last session is a failure and ought to be repealed.

The first objection to the present law is that it is not general. The right to put it into operation in any county is dependent, first, upon the wishes of a certain number of petitioners, and, finally, upon the result of a special election held at great expense to determine whether a majority of the voters of the county are in favor of it.

The result so far in this State shows that only seven counties have availed themselves of the present law, and none of these, as I am informed, is anxious to retain it.

Another objection, and one which practically destroys the purpose of such law, is the opportunity which it affords to designing men of one political party to influence if not to control the nominations of another political party.

A primary nomination law should be enacted of general application throughout the State by which the voter could express his preference for every officer to be elected, including a United States Senator. So far as a United States Senator is concerned, the vote of course would only be advisory, but to that extent it would reflect the popular will and practically amount to an election by the people, a method now in vogue in several states.

So far as party designations are concerned, no "party" should be recognized on the ballot as a political party whose candidate at the next preceding general election did not receive a certain per cent. of the total vote polled at such election. The per cent. should be sufficiently small to embrace all bona fide existing parties. This would aid materially in reducing the size of an already cumbersome ballot, and discourage the formation of parties which have nothing to recommend them but the emoluments of office.

### **REGISTRATION.**

It is well known that the population of this State has been increasing steadily from year to year, and yet the humiliating fact remains that from some cause this is not made apparent by the votes cast at our last general election. On the other hand, official returns

show that at the last election there was a falling off of about ten thousand votes as compared with the vote of 1904.

While in some localities this falling off showed a greater per cent. than in others, it is believed that the loss was general throughout the State. This may be the result of a lack of interest on the part of the citizen, or it may be, as claimed by many, that it is largely due to the confessed inconvenience and expense which our present registration law imposes upon many voters.

In some States provision is made for registration without cost biennially with the county clerk between January first and June first, and before a justice of the peace in the several townships between the same periods, at an expense to the county in the latter case of ten cents for each person registered.

This presupposes, of course, the printing and furnishing of necessary blanks to the proper officers for that purpose, including the necessary application for a transfer from one precinct to another in cases where the elector has changed his precinct residence after registration. The general scheme for this system of registration has been, I think, well considered in the State of Oregon. This would save a great cost to the several counties. The expense to the county of Lewis and Clark alone for its registration of its four thousand four hundred and fifty-one voters at the last election amounted to between three and four thousand dollars.

From this data you may fairly approximate the expense which could be saved to the several counties by the system suggested, but the greater consideration, of course, is found in facilitating registration of the elector by making it more convenient, and in case of registration in the rural districts by reducing the expense necessarily incurred by individuals who frequently are obliged to travel long distances.

I would not withdraw a single safeguard which experience has shown should be thrown around the ballot, but I would, if possible, make the exercise of the right of suffrage less burdensome and expensive.

I submit the subject for your careful investigation and consideration.

## **ELECTION OF UNITED STATES SENATORS BY A DIRECT VOTE OF THE PEOPLE.**

Twice has the Legislative Assembly of this State asked Congress, in vain, to submit a proposed amendment to the Constitution of the United States providing for the election of United States Senators by the people. Three times have we made application to Congress to call a convention for the same purpose, and each time have we failed because the necessary two-thirds of the States have not joined in a similar request.

Gradually, however, the people are gaining ground and each year additional States are joining in this request, until it seems likely that this much desired reform is to be realized in the near future.

In December, 1906, a convention was called by His Excellency, the Governor of Iowa, under the direction of the Legislature of that State, to consider this subject. Delegates were appointed to represent the State of Montana, but did not attend. The convention was, as I understand, fairly representative and adopted the following resolutions, which I was requested to present for your consideration:

“Whereas, it is the judgment of the convention that the legislative branch of the national government should be placed more directly under the control of the people of the several States; and

“Whereas, there exists, and has long existed, a strong popular demand for the election of United States Senators by the direct vote of the people, and said demand is, in the opinion of this convention, well founded; and

“Whereas, the Constitution of the United States provides only two methods whereby the provision respecting the election of United States Senators may be changed; and

“Whereas, the method ordinarily adopted of Congress on its own initiative submitting to the several States a proposed amendment has heretofore been ineffective owing to the refusal of the United States Senate to submit such proposed amendment to the several States; and

“Whereas, there is no alternative for accomplishing the desired reform save an appeal by at least two-thirds of the States to Congress, asking that a Constitutional convention be called; be it therefore

“Resolved, that, while this convention would much prefer



that Congress should submit to the several States a proposed amendment to the Constitution for the election of senators by direct votes of the people, so that the States might pass upon it as a single question, yet, inasmuch as the Senate persistently refuses to submit such amendment, it therefore earnestly recommends that the legislatures of the Several States do, in pursuance of Article 4 of the Constitution of the United States, make application to Congress to call a convention for the purpose of proposing amendments to the Constitution of the United States. Be it further

“Resolved, that the president and secretary of this convention be and they are hereby instructed to transmit duly certified copies of these resolutions to the chairmen of the national committees and of the several State committees of the two leading political parties, also to the governors of the respective States, to each member of Congress, and to the president. That in transmitting the copies to the governors of the States the president and secretary of this convention shall inclose a letter urging each of them to lay these resolutions before the legislature of his State.”

I hope that similar resolutions will continue to be passed and sent to Congress until this much desired end is attained.

#### **PROFITS ON PUBLIC MONEYS.**

Suits have recently been brought by the Attorney General to recover profits alleged to have been made by certain officials upon public moneys. These suits are still pending and undetermined.

Such practices, if they exist, are demoralizing and aside from the injustice and illegality resulting from indirectly increasing the emoluments of those officers far beyond the salary provided by law and the adequacy of the service rendered such conduct furnishes the incentive for speculation which sooner or later will result in great financial loss to the public.

The profits on public funds, whether belonging to the State, to counties or to cities, arising from deposits should be paid into the public treasury. It is far better, in my opinion, that no interest should be paid to the public upon its funds than that a system should be tolerated which swells the emoluments of an officer to an amount wholly incommensurate with the duties of his office and offers a temptation to make deposits in an institution which may

have little to recommend it except the high rate of interest which it offers to pay.

Such legislation, civil and criminal, as may be found necessary to prevent a recurrence of alleged offenses of the character mentioned, and in aid of the plain purpose of the Constitution, should be promptly passed.

#### **OFFICIAL BONDS AND SURETY COMPANIES.**

Some States refuse to accept individual or personal sureties when surety company bonds are available. This is not an unreasonable requirement. The law should be amended accordingly and increase the bond of the State Treasurer to an amount not less than seven hundred and fifty thousand dollars, the premium therefor to be paid by the State.

#### **FARMERS' INSTITUTES.**

A State is strongest when its agricultural pursuits are most developed and its soil is intelligently conserved. Wise provision has been made for holding farmers' institutes in the several counties of the State.

From the first it has appealed to all thoughtful men as a most important channel through which to awaken our farmers to a consciousness of the possibilities of our soil and teach them how agricultural and mechanical labor can be elevated to its highest dignity and efficiency.

It has made prodigious strides in the accomplishment of its purpose. The growing interest in this method of imparting useful and necessary information is strongly attested by the following brief table, showing the number of towns in which institutes were held, the number of days so employed, the number of sessions held, attendance at meetings, and the expense of the same covering the period from 1901-2 to 1905-6:

Year	No. Towns	No. Days	Sessions	Attendance	Funds Spent*
1901-2	17	22	No report	....	\$2,630.05
1902-3	33	35	43	1543	2,936.44
1903-4	39	43	72	4439	3,950.47
1904-5	47	53	100	6946	4,000.00
1905-6	63	77	133	7890	4,000.00

\*Includes the printing and distribution of an annual report of over two hundred pages in a five thousand edition.

The directors of this institute are so impressed with the value of the work done and the possibilities for the future that they have unanimously asked for an increase in the annual appropriation.

The success made in dry land farming alone, a method employed in many localities in the State, under the directions of these institutes has transformed many a desert waste into prolific fields of grain, and is worth in a single year a hundred times the increased appropriation asked for the ensuing two years.

#### **STATE FAIR.**

The establishment of the Montana State Fair by the Eighth Legislative Assembly has placed that institution upon a popular and permanent basis.

It was a wise provision which placed its management under the control of a board of directors consisting of one resident citizen of each county in the State, thus relieving its management from the imputation of any possible local influence.

If I should make the possible exception of the farmers' institute, I know of no other concern for which appropriation of the State's money is made that furnishes such abundant returns as the State Fair in making manifest the marvelous possibilities of our agricultural, livestock, mineral and other resources.

It affords the best opportunity for our citizens annually to assemble, confer and discuss methods for the betterment of these great and growing interests.

In this highly favored State it is true that the most ignorant who knows enough to manipulate a shovel or trundle a wheelbarrow may get a living, so-called, from the land. But to develop the latent resources of the soil and to make the most of his profession require from the agriculturist and his allies, the dairymen and horticulturist, in my opinion, a wider range of studies and a closer power of thought and analysis than are required in many of the **learned** walks of life.

The continued increased patronage of the fair from all parts of the State attests its popularity and furnishes ample evidence of the appreciation by our people of the facilities which it affords for the advancement of our material interests. One marked evidence of this fact is shown by the increase in the number of entries, as follows:

Year.	No Entries.
1903.....	1696
1904.....	2297
1905.....	3877
1906.....	4163

The increased patronage from year to year made it necessary in 1906 to erect a new and modern grandstand. No appropriation being available for this purpose, a corporation known as the State Fair Grandstand company was organized, and the grandstand was erected by it upon a piece of leased land.

The State Fair manages it. By the terms of an agreement between the parties the Montana State Fair agrees to pay to the Grandstand company a sum equivalent to eight per centum per annum upon the exact cost of the grandstand, which was twenty thousand dollars, with the right to purchase the same at any time at its actual cost. This, the executive committee says, was the best that could be done to meet a pressing necessity.

I desire to express the hope that you will provide for taking up this option at once and save sixteen hundred dollars annually paid for interest, and that you will make a liberal appropriation for needed improvements mentioned in the report of the executive committee, which will be printed for your information.

There is at least forty thousand dollars in the fish and game fund in excess of the needs of that fund, which I recommend be transferred to the general fund and out of which the necessary appropriation be made for this purpose.

#### **HORTICULTURE.**

It is a source of great satisfaction to note that the Board of Horticulture is doing a splendid work in this State, which has fully vindicated the wisdom of the law creating it. Most of our pioneers thought well enough of Montana if it continued to bring forth its accustomed yield of precious metals. Few of them were optimistic enough to believe it possible to raise the hardier varieties of apples, pears and crabs, and none ever dreamed that it was destined to be the great fruit-producing country, both in quantity and quality, which it is now admitted to be.

Close and intelligent study has enabled our horticulturists to

wisely discriminate in the selection of the best varieties and thereafter to protect them against insect pests which have been most destructive in other States.

I commend the wise and determined efforts put forth by the secretary and inspector at large of this body to exterminate the codling moth in its inception and the destruction of diseased nursery stock shipped to the State.

I bespeak for this body a continued and generous appropriation sufficient to insure a systematic and successful warfare against the further invasion of insect pests and the extermination of such as now exist in the orchards of the State.

#### **RAILWAY EMPLOYEES.**

For the safety of the public and of railway employes it is believed that a law should be passed, limiting the hours of labor of railway employes engaged in the operation of trains in this State and providing for frequent and thorough inspection of locomotive engine boilers. I do not think it practicable, however, to put this inspection under the jurisdiction of the State Boiler Inspector; but such duty should be enjoined on the part of railroad companies, and a failure to scrupulously observe this requirement should be penalized by appropriate legislation.

#### **RAILROAD COMMISSION.**

I renew the recommendation made to the Ninth Legislative Assembly for the creation of a railroad commission with full power to regulate rates within the State. Inasmuch as Congress has recently legislated on the same subject as applied to interstate commerce, I think it wise to frame our legislation for State regulation as far as practicable in harmony with the national act, thus giving our commission the benefit of the experience and research of the interstate commission in the establishment of rules of practice, methods of procedure, and precedents.

Express companies, sleeping car companies, telegraph companies, interurban electric companies and interurban telephone companies should all be treated like the railroads and put under the control of the railroad commission, and the law should vest in the commission the authority to exercise any control necessary for the most ample protection of the public.

It is generally known that the bill passed at the Ninth session relating to this matter did not meet with my approval and failed on that account. The main objections then urged to that bill were:

First. The Legislature invaded the province of the executive in assuming to name the commissioners.

Second. That, whether expressly prohibited or not by the Constitution, the exercise of such power of appointment by the Legislature as a matter of public policy ought not to be regarded as a Legislative function.

Third. The appointees held over two general elections, contrary to the provisions of the Constitution and violative of that practice which ought to obtain by which the will of the people can be expressed at frequently returning periods.

Fourth. No provision was made for the removal of the commission or any member thereof.

I may add that the commission, in my opinion, ought not to have more than one member of any political party upon it if we are to expect with confidence equal and exact justice to the people on the one hand and the railroads on the other.

Further reflection has confirmed me in the wisdom of the views then expressed, and I trust that the objections then and now made may be obviated in any legislation which may be enacted at this session.

#### **FREE TRANSPORTATION.**

The same public sentiment which found expression in recent congressional action prohibiting the granting of passes by transportation companies engaged in interstate commerce is no less pronounced or applicable so far as transportation companies operating within this State are concerned. If such practice is reprehensible in connection with interstate transportation companies it is equally so by such companies while operating within the limits of a single State, and in deference to this strong public sentiment rather than from any apprehension of my own of possible misfeasance on the part of public officers who are the beneficiaries of such favors. I recommend such legislation as will effectually prohibit the giving or acceptance of passes or free transportation in this State to such officers under no less limitations than are now prescribed by law for interstate roads and companies.

However conscientious the recipient of these favors may be, and however firmly anchored may be his loyalty to the public, there is no doubt that, in view of the development in recent years of public sentiment in this regard, he becomes the subject of criticism, whether just or unjust, to such an extent as to impair in a measure his usefulness as a public servant, and since every citizen owes his first duty to the State, whether that duty be invoked at a general or special election, at town meetings, or elsewhere, and since the same motives and considerations are presumed to actuate and influence his conduct, I can conceive of no reason why the same principle which applies to a public officer should not apply to the private citizen as well. To say the least, it would remove that objection which discrimination always invites, however magnified such objection may be.

#### **STATE BOILER INSPECTOR.**

The administration of the office of Boiler Inspector has been one of pronounced satisfaction and efficiency for the past six years. During this entire period the office has been more than self-sustaining, having returned in that time to the State Treasury a net surplus of seventeen thousand eight hundred and twenty-three dollars. But most to be commended is the fact that during this entire period not a single explosion or accident connected with a boiler under the jurisdiction of this office has ever happened.

The inspector reports among other things as follows:

“This department has accomplished more work during the past year than ever before in its history. In the year 1891 the office force consisted of two inspectors and there were examined three hundred and ninety-three boilers. For that year the excess of expenses over receipts was two thousand four hundred and eighty-two and 44-100 dollars. In the year 1906 the office force of the department has been three inspectors, and there were inspected one thousand four hundred and seventy-four boilers, while the receipts in excess of disbursements were five thousand seven hundred and twenty-five and 36-100 dollars, a difference in favor of the present force of eight thousand two hundred and seven and 74-100 dollars, and the work is still increasing. We have no clerk to look after the office while the inspectors are out attending to their duties, and one is badly needed.”

Upon the showing in this report his request for a clerk seems most reasonable, but in view of the fact that the offices of State Mine Inspector and State Coal Mine Inspector are in such similar need and their offices are so situated in the Capitol as to make one clerk, in my opinion, available for the three offices, I recommend an appropriation for a consolidated clerkship at the rate of one hundred and twenty-five dollars per month for the ensuing two years.

### **MONTANA'S MINES.**

Never in the history of the State has the magnitude of the mining industry been so impressive as during the past biennium. At no previous time has there been so much of activity and so great expenditure in prospecting and developing. It is a significant fact that the confidence of eastern investors who desire to place their money in legitimate mining ventures in this State is stronger than at any time in our history.

The first work in the opening of a mineral section is rarely engaged in by mining corporations; this falls upon the prospector, so that upon him in the future as in the past must the State largely depend for the discovery of the leads that are, with the application of energy and capital, to develop into paying properties. This exploration and development of the mineral properties is being retarded by the federal forest reserve regulations and management. The prospector is so hampered by these regulations that his work is made difficult and the incident delays are discouraging. When it is considered that nearly all of the mineral area of the State is now included in these reserves, the deterring influence on the extension of the mining interests can be appreciated.

But the advance that has been made in the mining industry in this State during the past few years is little short of marvelous; this being particularly true of the copper mines, which are now regarded as models in everything pertaining to their equipment and methods of working.

During the year 1905 Montana produced more than three hundred and fourteen million pounds of copper alone, while the production for 1906 reached three hundred and forty million pounds—more than forty per cent. of the copper output of the United States. The great Butte district is more prosperous than at any



time in its history, there is more ore in sight in the mines, and the deeper development has proved that the ore bodies are retaining their values and dimensions; while the activities at many of the smaller camps show a condition most encouraging.

I am urged to recommend the advisability of some active effort to advertise our mineral opportunities, but the enormous output of our mines and the splendid profit which they are annually yielding speak louder than words to the intelligent investor.

"Wherever the carcass is, there will the buzzard be found;" and so, in view of our enviable reputation as a mineral-producing State, it is not unlikely that it will soon be infested with mining sharks and irresponsible individuals ready to reap rewards from "wildcat" schemes on the strength of the general reputation and prosperity which we enjoy as a State.

Instead, therefore, of providing for any plan of advertising our resources as a **mining country**, the legislation which most commends itself to me is embodied in a proposed bill discussed and adopted by the last session of the American Mining congress, as follows:

"Any person who knowingly makes or publishes in any way whatever, or permits to be so made or published, any book, prospectus, notice, report, statement, exhibit or other publication of or concerning the affairs, financial condition or property of any corporation, joint stock association, copartnership or individual, which said book, prospectus, notice, report, statement, exhibit or other publication shall contain any statement which is false or wilfully exaggerated or which is intended to give, or which shall have a tendency to give, a less or greater apparent value to the shares, bonds or property of said corporation, joint stock association, copartnership or individual, or any part of said shares, bonds or property, than said shares, bonds or property or any part thereof shall really and in fact possess, shall be deemed guilty of a felony, and upon conviction thereof shall be imprisoned for not more than ten years or fined not more than ten thousand dollars, or shall suffer both said fine and imprisonment."

The language employed in the above extract is perhaps too strong, but the idea embodied in it is commendable.

The situation at present demands, and I recommend, the enactment of a law providing for the regulation of the ventilation and sanitation of the mines under the authority of the State Mine In-

spector. This matter, which is necessary to preserve the health and lives of the miners, is treated exhaustively in the report of the Mine Inspector.

The report of the inspector shows a great volume of work accomplished the past year for the regulation of work in the mines. It is also shown that there was a falling off in the number of fatal accidents in mines under the supervision of this department during 1906 as compared with the year preceding.

Fifteen thousand five hundred men are reported to be working in the mines every day, and the men who delve and the men whose capital is pushing development are worthy of all encouragement. to the end that there may be the fullest development of the vast mineral resources of the State.

### COAL MINING.

The growth of Montana's coal mining is another gratifying feature of the record for the past two years. From a total output of an insignificant two hundred and twenty-four tons in 1880, the industry has grown until for the past year the production has reached more than two million tons, and the State within one year has risen from twenty-first to twentieth place in the column of coal-producing States. The output for the past year came from forty mines, wherein were employed three thousand two hundred and eighteen men.

At Red Lodge during the past year there was an accident in which eight men lost their lives. The disaster brought to the attention of the department the general lack of knowledge of carbon monoxide gas—most fatal and insidious of the gases with which coal miners must deal. I appreciate the untiring efforts of the Coal Mine Inspector to gather all data available regarding this gas. His report to me shows that the department has devoted much time and care to this work and secured a great deal of information that must prove of value to mine-owners and miners.

In his report the Coal Mine Inspector makes the following recommendations, which seem to be reasonable and in the interest of operators and operatives alike:

That all coal mine managers, superintendents, foremen, bosses, firebosses of coal mines, whether the mines be rated

as gaseous or not, be required to undergo examination before an examining board, and secure certificates.

That the foreman of a mine be required to visit every part of a working face every other day, so as to be personally familiar with all of the conditions of the property for which he is responsible.

That timber cut and squared at both ends be delivered at the mouth of working, so that it may be at hand in case of urgent need.

That the driving of entries and crosscuts be regulated as to their distances from each other, etc.

That standing or stagnant water shall not be allowed to remain in courses, entries, travelways or rooms, and that no obstruction of any nature shall be placed in crosscuts, rooms or entries used as airways; and in case of falls and caves, in such places, that they be removed at once.

That for the purpose of ascertaining the volume of air traveling in the mine and the face of each working place, the foreman or other person in charge shall be compelled to take the measurements at least once a week, and make monthly reports of the same to the State Inspector; this law to apply to all mines employing fifteen or more men underground.

That provision be made for the periodical testing of coal mine scales.

That the answering of statistical interrogatories sent out by the department to coal mine operators be made compulsory.

That all laws regulating coal mines be provided with fine and imprisonment penalties, so as to avoid whenever possible the resort to an injunction, which closes down the property, throws the miners out of employment and stops the output of the mine.

That the handling of explosives and blasting in the coal mines be regulated by law.

### **STATE LANDS.**

The administration of the trust respecting State lands which, under the Constitution and laws, devolves upon the State Board of Land Commissioners, has been the subject of constant study, care and solicitude by the Board, to the end that the best interests of the State might be conserved.

Difference of opinion exists, and perhaps always will exist, as to the best method of executing this trust. Many men of recognized business capacity and sound judgment insist that State lands ought

to be sold whenever the market price for similar lands (not less, however, than the minimum price fixed by the Enabling Act) can be obtained, while others of equally recognized business sagacity and prudence insist that, in view of the fact that difficulty is found in finding profitable investment for the funds arising from the sale of such lands and the probable increasing value of all landed interests in the State, the wiser course is to encourage the leasing rather than the sale of our lands.

Confronted with such divergent views, the Board has adopted a conservative course, controlled in every instance by what seemed for the best interests of the State when considered with reference to the particular piece of land in question, its present and prospective proximity to transportation facilities, character of soil, possibility of future irrigation, etc.

The trust is an onerous and responsible one, increasing in magnitude and importance every year, as the following brief resume from the report of the State Land Register will show:

“The business transacted in this department during the last twelve months is larger by over two hundred and sixty thousand dollars than any previous year.

“The State now has 1,890,453.07 acres under five year contracts, which yield an annual revenue of \$199,518.42. There are 160,860 acres under annual permits, yielding \$10,801.25 a year, making a total of 2,051,313.07 acres under lease, yielding an income of \$210,319.67.

“The total receipts for the year are \$651,352.62, derived from the following sources: From sale of lands, \$236,417.57; from timber sales, \$193,151.63; from leases, \$209,956.66; from interest on deferred payments, \$11,291.90; and from royalties on coal, \$534.86.

“During the year the State Board of Land Commissioners approved of two particularly large timber sales, viz.: to the Northwestern Lumber company, of Kalispell, 69,135,000 feet for \$138,270, and to the Big Blackfoot Milling company of Bonner, 19,030,000 feet for \$38,060.”

Our timber lands are a source of considerable revenue. We have made some large sales within the last year at increased prices, selling nothing at less than two dollars per thousand, and much at two dollars and fifty cents and two dollars and seventy-five cents, upon our own estimates or scale. In many instances we have sold

on account of the exposed condition of the timber to fire, an element most dangerous and difficult to combat.

It is our purpose, however, in the future, in view of the rapidly increasing demand for timber, the lack of adequate supply and the consequent increase in value of the remaining forests to reduce our sales to a minimum commensurate only with the necessities of the citizen for home building and other necessary improvements on our farms and in our mines, certainly until the opportunity has been afforded for the most careful investigation and thorough re-estimation of the same.

I am confident that the State owns much valuable coal lands, which will in years to come be one of its largest assets. The Board has undertaken to secure some development upon a tract of coal land near the town of Havre, in Chouteau county, by leasing the same to C. J. Ayers, and another tract in Carbon county to J. C. McCarthy, of Bozeman—both upon a royalty basis, which guarantees us, in the Carbon field, two thousand five hundred dollars per year, whether worked or not.

These leases, which run for five years, are made, I think, upon terms favorable to the State, are operated under the supervision of the State Coal Mine Inspector, and will prove, I hope, a valuable experiment in that direction, and vindicate the policy now practiced, that coal, iron and other mineral lands should be leased rather than sold, in so far as the State has control, and the leases limited in duration and the amount that one person or corporation can control.

Owing to close competition with bond houses in the east, we have not been able to invest the funds of the State resulting from sales, leases, etc., to the best advantage, and find ourselves in possession of more than five hundred thousand dollars arising from these sources uninvested, notwithstanding we have made diligent effort to invest the same.

In view of these facts I think it would be prudent, in cases of sales of lands on credit, to extend the deferred payments over a period of twenty instead of fourteen years, as now provided by law.

I am also in favor of conferring upon the State Board of Land Commissioners power to lend its surplus and uninvested school and land grant funds upon approved real estate mortgage security within the State, by a safely guarded measure, as an escape from the sharp competition which now obtains in the purchase of securities

now authorized by law. While this would necessitate the increase of the working force of the Register's office, it would, in my opinion, be found at once a wise and a profitable departure from the present system.

### **GAMBLING.**

The Attorney General in his annual report recites at length his trials and tribulations respecting the enforcement of the law to prohibit gambling in this State, and manifests an evident lack of confidence in its efficiency. He says:

"My attempts to see that this law was enforced have been so discouraging and unsatisfactory that I would suggest and recommend that the Legislative Assembly take the matter up fairly and boldly, and either absolutely repeal the law and place gambling under strict police surveillance and high license or else provide legislation insuring its enforcement."

And he adds that the Legislature ought to create the office of "State sheriff" to carry out any order from his department where the sheriff of the county either fails to do so or resorts to subterfuge.

But suppose the "State sheriff" fails or resorts to subterfuge—what then?

The fact is, that if the boasted citizenship of this State fails and refuses to come to the aid of the law department in cases of open and flagrant violations of this statute no amount of money expended in creating State sheriffs will arouse a sentiment which can be expected to rise higher than its fountain—the people.

It is common knowledge that the law is a flat failure; that violations are "winked at" in some parts of the State, while in other honest efforts, even if unsuccessful, are made to enforce them.

I invoke upon the part of all our citizens a newborn zeal for the enforcement of all laws as long as they are a part of our statutes. On the other hand, if they are obnoxious, repeal them and save the State that demoralization which comes from confessed inability to enforce them.

### **THE PENITENTIARY.**

Laws for the punishment of crime shall be founded on the principles of reformation and prevention, says our Declaration of

Rights. Properly construed this means that though punished the prisoner "is not forsaken, that society has an interest in his welfare, is hopeful of a better future for him, and surrounds him with incentives to repentance and reformation of life."

Can we hope to accomplish such results with hundreds of men of all ages, representing all degrees of vice, huddled together in this university of crime in idleness? They are sentenced to "hard labor," but there is no labor.

Section 2 of Article XVIII of our Constitution reads as follows:

"It shall be unlawful for the warden or other officer of any State penitentiary or reformatory institution in the State of Montana, or for any State officer to let by contract to any person or persons or corporation the labor of any convict confined within said institution."

May not the Board of Prison Commissioners, without violating the Constitution, work these prisoners in some non-competitive occupation and unassociated with free labor, not only that they may help to pay the expense which the State has incurred in their prosecution, custody and maintenance, but that they may have that physical exercise necessary for health? If so, the necessary provision should be made therefor.

Our penitentiary contains four hundred and fifty convicts, representing those from youth to old age. Many of those are there for "first offenses." An enlightened public sentiment has evolved a parole system by which these first offenders may be released upon certain conditions, and the system has never been abandoned when adopted.

"Such a philanthropy makes no compromise with crime—has no sympathy with the morbid sentiment which is offended at the just punishment of a felon, but seeks to make that punishment a means of good," while the offender is yet young enough in strength and character to earn a place among his countrymen as a self-supporting member of the community.

"This philanthropy," once wrote a venerable statesman of Kentucky, but now of Montana, "is hopeful because it believes that the inmates of our penitentiary are not of necessity the worst of men, that a convict is often placed there not because he is a monster of depravity but as an offender against the law to expiate

some rash act to which he has been driven by the sudden violence of passion or beguiled by the siren voice of some peculiar temptation.”

For such the parole system is helpful. I commend the whole subject to your wise and discriminating judgment.

### **FOREST RESERVES.**

There is no doubt of the wisdom of the creation of forest reserves in this State by the federal government, but such reserves should be created only after the most thorough investigation, so that only lands essentially timber in character will be included.

Twenty-one separate forest reserves have been created in Montana, embracing an aggregate of eighteen million five hundred and seventy-two thousand nine hundred acres, millions of acres of which, by any reasonable intendment, ought never to be classified as timber lands.

The demand for homes by the flood of settlers coming to this State ought not to be obstructed or denied by unnecessary withdrawals of the public domain or unreasonable regulations in the administration of the law. Nor should the development and exploration of our mineral resources be unnecessarily hampered.

I think our Senators and Representatives in Congress should be asked to protest against the magnitude of these indiscriminate reserves and insist not only upon their curtailment to actual timber areas, but upon a modification of the “reasonless regulations” which, as I am informed and believe, have in many instances “been enforced with such severity and disregard of business methods long settled, and with such arrogant assumption of authority as to amount to a petty but intolerable tyranny;” a condition which, if properly brought to the attention of the President of the United States, would in my opinion be speedily corrected.

### **INCOME FROM FOREST RESERVES.**

The agricultural appropriation bill passed by Congress and approved June 30, 1906, among other things contains the following:

“That ten per centum of all money received from each forest reserve during any fiscal year, including the year ending June thirtieth, nineteen hundred and six, shall be paid at the end thereof by the Secretary of the Treasury to the State or Terri-



tory in which said reserve is situated, to be expended as the State or Territorial Legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which the forest reserve is situated; Provided, that when any forest reserve is in more than one State or Territory or county the distributive share to each from the proceeds of said reserve shall be proportional to its area therein: And provided further, that there shall not be paid to any State or Territory for any county an amount equal to more than forty per centum of the total income of such county from all other sources."

I am advised by the Treasury department at Washington that the provision contained in said act does not authorize the payment to any State or Territory of an amount greater than forty per centum of the total income from all sources of the counties in which the forest reserve is located.

In order that the provisions of the act may be carried out as construed by the Controller of the Treasury, I have called upon the several county treasurers to furnish me with a duly authenticated statement showing the total income for the year ended June 30, 1906, from all sources of those counties in which forest reserves are located in whole or in part, for transmission to the Department of Agriculture as requested.

I am further advised that the records of the forest service will show the gross receipts from the forest reserves in Montana during the fiscal year ended June 30, 1906, to have been as follows:

Yellowstone reserve .....	\$ 5,554.45
Bitter Root .....	1,435.85
Gallatin .....	3,735.97
Lewis and Clark (N).....	825.68
Lewis and Clark (S).....	2,041.99
Madison .....	9,666.27
Little Belt.....	4,893.44
Highwood Mountains .....	1,319.31
Elkhorn .....	1,369.36
Hellgate .....	20,187.98
Big Belt .....	7,353.30
Helena .....	306.83
Total.....	\$58,690.43

Ten per cent. of this amount, or five thousand eight hundred and sixty-nine dollars and four cents, is the approximate contribution of the reserves to schools and roads in Montana for the year ended June 30, 1906—a sort of peace offering or mess of pottage which the United States gives us, to be divided between eighteen counties, in return for our acquiescence in the withdrawal of this empire in extent, patrolled and regulated by a bureau at Washington.

It will be noted that the amount to be apportioned to Montana when received can only “be expended as the Legislature may prescribe for the benefit of public schools and public roads of the county or counties in which the forest reserve is situated.” In order, therefore, to avail ourselves of the benefit of this fund, it will be necessary to enact appropriate legislation.

### **GENERAL APPROPRIATION BILLS.**

Under the Constitution no appropriation can be made for a longer period than two years.

Our fiscal year ends on November 30, and for convenience doubtless our appropriations for the executive and judicial departments have heretofore been made to cover these fiscal years. The result has been that the general and ordinary expenses of these departments, except salaries of officers fixed by the Constitution, are in default after the end of the second fiscal year and must await the passage of the general appropriation bill, which is usually about the last day of the legislative session, making a period of three months during which no funds are available to pay these necessary expenses.

There appear to be difficulties in the way of changing the fiscal year. There does not, however, seem to be any Constitutional or other objection to appropriating early in this session a sum sufficient to cover these claims referred to as deficiencies since November 30, last, and accruing expenses for the executive and judicial departments up to April 1, 1907, and thereafter make the general appropriation bill available for two years from April 1, 1907, to April 1, 1909. This would hereafter carry us over until April first after each biennial session of the Legislature. This, I think, is most desirable and would remove a great burden from those who cannot afford to wait three months for their money. I hope this will be done.

### **PRIVATE BANKS.**

There is no reason why private banks should not be subject to the same laws and regulations as State banks, both as to capital stock, control and methods. There are thirty-four private banks doing business in this State, many of them justly holding high rank as financial institutions, but in order to give to them as a whole that character and stability which the citizen has a right to demand, they ought to be subject to the same laws as State banks.

The State Examiner has given this subject much attention, and in his report for 1905 made the following pertinent observations, which meet with my approval:

“The national and state banks are under supervision and control and their business is published five times a year at uncertain dates fixed by the Comptroller of the Currency and the State Bank Examiner. Publicity is the life of modern business, more especially the banking business, and tends to beget confidence on account of the knowledge of character, method and financial condition shown by the published reports. Private banks should also be placed under the supervision and subject to the same restrictions as state banks. They should have a capital, to be the same as that of state banks, and same should be exempt from attachment or execution of any outside creditor of the owner, and its assets and liabilities should be exclusively for the benefit of its creditors, the same as national and state banks. State supervision and report without this would not cure the evil of private banking because the Examiner has no access to or knowledge of the private business of the banker. A private bank may be in the best of condition and the banker's private affairs may be financially bad, in which case, the bank being subject to the general debts of the banker, depositors must share equally with outside creditors. The failures of private banks are four to one of those of incorporated banks under supervision, and the losses are many times more. Banks attract the savings of those who save and loan them out to those who produce, therefore their growth and number are most beneficial to the State. Every money saver should have confidence to entrust his savings to those who will use it conservatively, and this confidence can best be had by compelling bankers, whether corporate or private, to observe safe methods and to submit to inspection and regulation.”

### **BOUNTIES ON STOCK-DESTROYING ANIMALS.**

The State Board of Examiners has endeavored, as far as pos-

sible, to reduce the allowance of fraudulent claims against this fund. Thorough investigation has satisfied us that an organized system of fraudulent raising of certificates has been practiced for a long time. Two of the guilty parties have been successfully prosecuted and are serving terms in the penitentiary. Other cases are pending.

Claims shown to be fraudulent, amounting to about nine thousand dollars, have been disallowed during the past year, and claims alleged to be fraudulent, amounting to about fifteen hundred dollars, are still the subject of investigation. It is also known that pelts of animals killed in adjoining States and in Canada, where the bounty is uniformly lower than here, have for years been brought into this State and bounties collected therefor. It is the purpose of the Board to run down, if possible, the guilty culprits who for years have been boldly robbing this fund of large sums of money.

After much experience in dealing with this subject, I am of the opinion that the chances for fraud and imposition would be greatly lessened if the claims against the bounty fund were made non-assignable, and I recommend that the present law be amended accordingly.

We have expended in this State in the last ten years one million two hundred and sixty-one thousand five hundred and fifty-five dollars and ninety cents in bounties on stock-destroying animals, omitting private bounties, without any noticeable depreciation of the number in existence or damage done. I am willing to venture the opinion that more than half the number reported killed were fraudulent or that the breed of stock-destroying animals extant in Montana is the most prolific of its kind in the known world.

Under the present law there are eighty-one inspectors, meagerly paid, who are supervising the bounty business. Among so great a number of underpaid officers it is not surprising that more or less indifference is manifested, if positive criminal conspiracy in some instances is not shown in the administration of this law, resulting in great loss to the fund.

In my opinion one high-class inspector with an adequate salary would be infinitely better than the present system. A visit for inspection purposes to the several counties once a month would be ample.

The present system may suit the stockmen of the State, but as one who is obliged to pass on the validity of these claims and finally audit them, I pronounce the law wholly inadequate.

### OCCUPATION LICENSE TAX.

There is a consensus of opinion that the occupation license tax, except liquor licenses, should be repealed whenever the assessable value of property in this State reaches an amount which with other sources of revenue will be adequate for the maintenance of the State government.

That time, however, in my opinion has not yet arrived. We are now levying for State purposes the limit allowed by the Constitution, that is, two and one-half mills, which is barely sufficient to pay the ordinary expenses of State government and such incidental appropriations as seem to be imperative.

The several counties have an elastic levy under the law which may be increased or decreased to meet a financial emergency. Not so with the State. The State now receives forty-five per cent. of licenses, which goes to the general fund and five per cent. to the bounty fund. If the counties are in condition to dispense with the revenues arising from this source and are willing to do so, I suggest that this license tax, except for sale of liquors, be reduced fifty per cent and that the whole of such revenues go into the general fund of the State. This would be a good beginning, and licenses might soon be dispensed with entirely.

If the license from all sources except saloons be repealed the State, on the basis of last year's receipts, would lose seventy-five thousand dollars.

One important fact respecting State revenue should not be overlooked, namely: When our assessed valuation reaches three hundred million dollars our levy drops from two and one-half mills to one and one-half mills. For 1906 it was two hundred and thirty-four millions. At two and one-half mills this produced for State purposes five hundred and eighty-five thousand dollars. Three hundred millions at one and one-half mills would raise for State purposes only four hundred and fifty thousand dollars. In other words, when the State reaches three hundred millions in assessable value it will receive therefrom one hundred and thirty-five thousand dollars less than it now receives.

### **SOLDIERS' HOME.**

This institution is represented by the Board of Managers to be wholly inadequate in its accommodations for the present number of inmates, without taking into account the probable increase. The crowded condition of the Home made it expedient for the managers to erect two large tents and fit them to relieve the overflow and provide accommodations for old soldiers who otherwise would be compelled to accept the bounty which the poorhouses of the several counties afford. Such accommodations cannot, of course, be used during the winter.

The cost of maintenance has increased on account not only of numbers cared for, but also on account of increased actual living expenses. The Managers' recommendations for increased maintenance appears to be reasonable and the erection of a hospital a necessity.

### **REFORMATORY, CHARITABLE AND PENAL INSTITUTIONS.**

These institutions are well cared for by the State. Complaints have been made from time to time respecting their management, which I have either investigated personally or caused to be investigated by the Board of Charities. These investigations have been exhaustive, and in every instance the charges have proved to be unfounded. It is only fair to say, however, that serious charges affecting the management of one institution from an apparently reliable source have not yet been investigated for lack of time and proper facilities, but this will not be long delayed.

### **EDUCATIONAL INSTITUTIONS.**

Our State educational institutions are in a flourishing condition, but the unsatisfactory manner of their maintenance by haphazard appropriations biennially has made it impossible to lay out any general plan of necessary and permanent improvements for the future.

The State Board of Education at its last meeting was so impressed with the imperfection and inadequacy of the present system that it authorized me to appoint a committee to consider and report to the Legislature the propriety of submitting a proposed amendment to the Constitution by which a direct tax could be levied for

the support and maintenance of such institutions instead of the present system.

This committee has been appointed, and if, when its report is submitted, the exigencies shall require it my recommendations will accompany its transmittal to you.

The public is generally aware of the fact that bonds aggregating four hundred and fifty thousand dollars have been issued against the land grants of the several educational institutions, which, so far as the State Normal college is concerned, have been declared invalid by our Supreme court. The case in which the decision was rendered is now pending in the Supreme court of the United States. Its hearing was upon application advanced and the case set down for argument on the seventh instant.

It is hoped that no obstacles will be presented or found to the consideration of the case on its merits, and that an early decision, sufficiently comprehensive in its scope, will be rendered touching this important question, to put at rest forever any uncertainty which may now exist respecting the validity of these bonds. If any contingency shall arise by which legislation becomes necessary, the whole subject will be hereafter presented in detail with such recommendations as may seem appropriate.

#### **CAREY LAND ACT BOARD.**

The work of the Carey Land Act Board is progressing satisfactorily. A comprehensive report of its doings will hereafter reach you.

Your especial attention is called to that portion of the report which deals with District No. 4 and Segregation List No. 5. It is believed that the whole scheme referred to as District No. 4, is a complete failure, and that good faith and fair dealing upon the State's part require us to take such steps as will eventuate in restoring this land to the public domain, and to this end appropriate legislation should be enacted authorizing the necessary relinquishments and the conveyance to the United States of the tract patented to the State. Otherwise settlement upon the same will be procrastinated indefinitely and the title to this whole block of land will go to a single corporation.

The whole subject, from its inception to the present time, is carefully reviewed in the report of the Carey Land Act Board, for which I bespeak your careful attention.

### **GAME AND FISH LAW.**

The game and fish law passed at the last session of the Legislature was allowed to become a law without my approval. This was not due to any objections which I had to the measure, but solely to the fact that I did not in the time limit have opportunity for careful investigation.

Meantime the practical working of the law has demonstrated that it is constructed on the proper theory and is accomplishing good results. If the law needs any vindication so far as it applies to the license system or the open and closed season for killing game, this is amply furnished by the last annual report of the Game Warden, a report which ought to silence much unjust criticism based upon misinformation of the law and a lack of knowledge of existing statutes in adjoining States. I hope these features of the law will remain intact. The license fee, however, so far as residents are concerned, could, I think, be reduced twenty-five per cent. without interfering with the enforcement of the law.

Doubtless some modification of the law is needed to secure more protection for fish from destruction in irrigating ditches, and to prevent corruption of streams from mining and other debris. The Game Warden submits in his report the plans and specifications for a paddlewheel, a simple and inexpensive device, to be placed at the head of the ditch, which, it is believed, will prove most effective. He also quotes with approval the recommendations of Hon. J. A. Henshall, superintendent of the United States fish hatchery at Bozeman, urging legislation requiring the construction of settling ponds by mines, paper mills, starch factories, beet sugar factories, oil refineries, distilleries, etc., for catching the offal and sewage which pollute the streams to such an extent as to destroy the fish. I ask for this matter your careful investigation and the enactment of the proper legislation.

As elsewhere suggested, the surplus in this fund, amounting to about forty thousand dollars, might well be transferred to the general fund, where it may be made available for other and necessary purposes.



### **MEAT AND MILK INSPECTION.**

The Eighth Legislative Assembly enacted a comprehensive and well considered meat and milk inspection law, which was being satisfactorily administered and producing good results when it was repealed by the Ninth session substituting another law in lieu thereof, which changed the whole system.

After a careful examination of that law it was found to be most objectionable, and it was vetoed. Seven several objections to the same were filed with the Secretary of State, which had the effect of defeating the measure, leaving the law passed by the Eighth session still in force. But inasmuch as no appropriation was made to carry out its provisions, it has been inoperative except in a few counties where the inspectors have gone forward in the discharge of their duties, trusting to the future ability and disposition of the Legislature to pay their salaries.

I recommend that their accounts be allowed and that sufficient appropriations be made for the two ensuing years to make this law effective.

### **LOUISIANA PURCHASE AND PORTLAND EXPOSITIONS.**

The final report of Hon. Lee Mantle, president, and Hon. Paul McCormick, secretary, of the Montana World's Fair Commission, in charge of our exhibits at St. Louis and Portland, has been filed in the executive office, and, in my opinion, furnishes a most enviable and creditable exhibition of patriotic and painstaking labor upon the part of the commission as a whole and especially upon the part of its able and efficient president and secretary, whose splendid executive abilities were invaluable in mastering and carrying out the details of this important undertaking.

It ought to be a matter of pride and felicitation on the part of the commission—as, I am sure, it is on the part of the public—that while no member of the commission has drawn a cent of pay, either for mileage, per diem or personal expenses attending meetings or looking after the affairs of the commission, it has returned to the State Treasurer eight hundred and one dollars and fifty-one cents as an unexpended balance.

The complete minutes of the proceedings of the commission and of the executive committee are bound and include a brief review of the proceedings leading up to the extra session of the Legislature

and the passage of the act creating the commission, which, together with all vouchers, statements of special agents and bills are available upon request if desired.

#### **DIRECT LEGISLATION.**

At the last general election there was submitted to the qualified electors of the State a Constitutional amendment realting to the legislative department and providing for direct legislation and reference of laws, at which election a majority of all the votes cast for and against said amendment was in favor of said amendment, by which the same became and is a part of the Constitution of this State.

Your attention is called to the last clause of section 2 of the act submitting said amendment, as follows:

“It shall be the duty of the Legislative Assembly to enact legislation suitable for carrying this amendment into effect.”

#### **CHILD LABOR.**

Child labor, with its attendant evils and its far-reaching consequences, is a subject worthy of the most serious attention of this honorable body. It may be said that the State of Montana is not vitally concerned in this question; but, admitting that the State is now in no immediate danger, it still seems to me that we have here the strongest argument in favor of early action by the lawmaking power. There are now in Montana few of those industrial establishments in the operation of which child labor might become an important factor; but Montana is growing rapidly, and will continue to grow, so that of necessity these industries will in a few years spring up. The day will then be here when the spirit that puts dividends above duty to humanity will dictate the employment of boys and girls of tender age, and succeeding Legislative Assemblies will find themselves confronted by one of the stubbornest problems of the day, that of finding a way to answer the cry of the children without seeming to desire to cripple or tear down established enterprises.

The time to provide against the rooting of the evil in this State is now, so that those who would enter the field may be under no misapprehension as to the attitude of the people of Montana toward a system that is wholly vicious. If the vote of two years

ago on the amendment prohibiting the employment of children in underground mines may be taken as an indication, there can be no possible doubt of the people's approval of legislation designed to make impossible here the horrors of the sweatshops, the cotton factories and other large employing concerns as they are known in so many of the States to the east of us. The experience of these communities in wrestling with the problem may well be a warning and an incentive to Montana to make a duplication of the fearful situation forever impossible in this State.

In prohibiting child labor in the mines, Montana has done well, but the State should go farther. It might prohibit the employment of children under a given age in any factory or shop; prohibit the permission of children to work, without which provision the former enactment would be of little effect; prohibit the night labor of children; and evolve a plan whereby the provisions of the law could not be evaded by false statements as to the ages of children sought to be employed. This latter situation might be met by amending the present school law so that a duplicate copy of the school census for each district in the State should be furnished to the Bureau of Agriculture, Labor and Industry, or such department as might be deemed advisable in the opinion of the Assembly. These statistics, furnished in the first instance by parents or guardians of children, should be made conclusive evidence as to the age of the child employed or about to be employed.

Child labor in the shops and factories is an evil concerning the seriousness of which there will be no difference except on the part of the money-grubber who is willing to fatten his bank account from the toil of the little ones. It saps the vitality of the child; it makes a dullard of one who might, under favorable conditions, have developed intellectual power; it is answerable for thousands of morally-blunted, mentally-dwarfed and physically-stunted children of whom the world was justified in expecting better things; and it sacrifices upon the altar of conscienceless gain so much that should make for the betterment of the race in generations to come.

We may procrastinate in our duty to our children and our children's children, but the day must come when it will demand action, and it were the part of wisdom to do this duty now.

Intimately connected with this and kindred subjects is the Bureau of Child and Animal Protection, which has done valuable

work along similar lines and deserves generous support. Without descending to details, the recommendations contained in the last biennial report of this Bureau meet with my approval.

### **HISTORICAL SOCIETY.**

The Historical and Miscellaneous Department of the State Library continues to grow in magnitude and importance, but its full fruition will never be realized until it and the museum are properly housed in a separate building erected exclusively for that purpose upon the Capitol grounds.

While this is quite beyond our means for the present, I hope that at no distant day this subject will receive favorable consideration by the Legislature. We will have done our duty for the present, considering our financial ability, if we make provision for its immediate needs, embodied in the following requisition:

The furnishing and completion of the vaults in the sub-basement in metal.

Shelving for room across the hall for overflow of books from main stock room.

Publication of a book catalogue.

Publication of Volume VII in 1907.

Employment of another trained assistant.

Appropriation for purchase of books.

Insurance in the amount of thirty thousand dollars.

With evident pride, the Trustees close their report with this pregnant and truthful paragraph:

"We are confident that an examination of the report of the Librarian will convince any one who shall give it thoughtful consideration that the Historical and Miscellaneous Department of the State Library of Montana, considering the time it has been in existence and the funds that have been at its disposal, is one of the best and most satisfactory to be found in the United States."

As an evidence of my own appreciation I may add that the Librarian is placing future generations under lasting obligations to her in preserving and perpetuating the valuable legacies of the past. The interest which she daily manifests in her great work has stimulated the voluntary and unrequited services of many people, without which much useful and interesting history would be lost.

### **INSURANCE.**

The whole subject of insurance within the past year has been investigated and threshed out over and over again by special commissions, conventions, etc., and continues to be a lively and interesting theme for policyholders and lawmaking bodies.

The State Auditor has been actively in touch with the proceedings and recommendations of those having to do with the matter. His printed report dealing with insurance will soon be in your hands, and may be made the subject of a special message.

### **IRRIGATION CODE COMMISSION.**

The Ninth Legislative Assembly by an act approved March 4, 1905, authorized the Governor to appoint an Irrigation Code Commission consisting of seven members, whose duty it should be to prepare a revised irrigation code adapted to the needs of Montana, to publish the same with such additional pertinent matter in such quantity and mail to such persons as the commission deemed best.

I accordingly appointed as such commission Henry N. Blake and F. H. Ray, of Lewis and Clark county; A. W. Mahon, of Valley county; I. D. O'Donnell, of Yellowstone county; J. N. Tolman, of Carbon county; C. H. Campbell, of Cascade county, and E. O. Lewis, of Ravalli county.

This commission entered upon the discharge of its duty impressed with the great responsibility of its task and has, as I believe, conscientiously discharged its trust. Some of the results sought by this proposed code as understood by the commission and set forth in its report are briefly as follows:

“First. The just and early adjudication of the many conflicting uncertain water rights now recorded, and this at the least possible cost.

“Second. The full and prompt protection of water right users, without costly litigation.

“Third. To afford the person or company now owning or hereafter acquiring a water right clear and indisputable title to the same.

“Fourth. To make beneficial use the basis, measure and limit of rights.

“Fifth. To prevent water waste.

“Sixth. To have all records relating to water rights tabulated by stream systems and accessible to the public at the State Engineer’s office, so that titles may be easily ascertained.”

I bespeak for this code and the report of the commission your careful and favorable consideration.

### **FLOCKMASTERS.**

I think it is a conservative estimate when I say that the flockmasters represent an investment in this State of Twenty-five or thirty million dollars. It is believed that this great industry, divided between fifteen hundred or more persons, ninety per cent of whom may be classified as small owners comparatively, has, in a great measure, been unjustly treated by the combination of eastern wool buyers, resulting in the past season in a shrinkage of over a million dollars below the reasonable value of their product.

So general and well founded was this opinion that I was urged by the representative sheepmen of the State to call a convention of flockmasters at the capital to consider ways and means for protection against such combinations. A convention was accordingly called, which met in the autumn of 1906. The response made to the call brought together a large representation. It resulted in the organization of the Montana Woolgrowers’ association, for mutual protection, and in the formation of a corporation the object and purpose of which was and is to establish an agency or agencies for the handling and selling of wool belonging to the stockholders of the corporation; to rent and provide for wool warehouses; to receive from stockholders wool on consignment; to borrow and loan money in the conduct of said business, and generally to transact such business as is usual or appropriate in the conduct of the affairs of a woolgrowers’ commission company.

Permanent officers have been elected, subscription books have been opened, and it is hoped and believed that sooner or later every flockmaster in the State will become a subscriber to the stock of a concern which promises to successfully handle the wool of its own stockholders as against the strong combinations controlling the market.

### **STOCK INDEMNITY TAX.**

Many claims have accumulated for animals killed under the provisions of chapter V, article V, part 3, title 7 of the political code. This fund has always been inadequate, and if it shall continue to be the policy of the State to make indemnity for such animals, section 3016 should be amended so as to make it mandatory upon the Board of County Commissioners of each county to levy one mill for that purpose and enforce the mandate by an appropriate penalty.

The law provides for levying a special tax, not exceeding one-half of one mill, upon the assessed value of all cattle, horses, mules and asses, to be known as the "stock indemnity fund."

There is no uniformity in the tax as levied. It varies according to the caprice of the Commissioners in the several counties, and in some counties no levy is made. This is not brought to the attention of the State Board of Equalization until the county boards have adjourned and the general tax levy is made and the rolls in the hands of the County Treasurer and the collection of taxes in progress, leaving us remediless.

If a uniform levy of one mill were made and a penalty fixed for a failure to make it, this fund would soon furnish ample money to make proper indemnity.

### **JUDGE OF THE FIRST JUDICIAL DISTRICT.**

The First Judicial district consists of Lewis and Clarke county. As originally created it had but one judge. Provision, however, was subsequently made for another judge.

I have long been of the opinion that one judge could do the work of the district without unusual or extraordinary effort and without denying a speedy trial to litigants. I have on several occasions asked the Legislature to abolish one of these judgeships.

The recent election of Hon. Henry C. Smith as an associate justice of the Supreme court leaves a vacancy on the bench in this district. This would be a good time in the interest of public economy to abolish an office while there is no incumbent.

I shall defer making an appointment to fill the vacancy until you have had an opportunity to take action upon this matter.

### **REVISION OF THE LAWS.**

No attempt at revision of the laws has been made since 1895, when the Codes were passed. It is conceded by judges, lawyers and laymen that our laws are in a deplorable condition, replete with contradictions and irreconcilable conflicts. The general rule that every man is presumed to know the law would, in the chaotic condition of our statutes, be a violent presumption if confined to the legal profession alone.

I hope it may be found feasible to provide for a complete revision of the laws so as to report them to the next Legislative Assembly.

### **NATIONAL GUARD OF MONTANA.**

The Adjutant General of Montana generously gives to the officers and men of the National Guard the credit for any advancement made in this arm of the public service. While this is doubtless true in a measure, I know that his active and intelligent efforts have given me a new interest in the organization and have stimulated officers and men to believe that the State will make adequate appropriation for its maintenance.

The report of the Adjutant General satisfies me that if this institution is to be made anything more than a makeshift a new military code should be adopted and his recommendations in the main adopted.

### **ASSISTANT TO ATTORNEY GENERAL.**

The department of the Attorney General undoubtedly needs another assistant, and I agree with him that the salary of his present assistants should be raised to two thousand five hundred dollars each, and his clerk's to eighteen hundred dollars.

### **ARBOR DAY.**

The splendid spirit which Arbor day has cultivated should be extended until it is felt in every school district in the State. The time as now fixed by law for Arbor day is the second Tuesday in May. Experience has demonstrated that this is too late for tree planting in Montana. I suggest, therefore, that the date be changed to the third Tuesday in April.



**DISBURSEMENTS BY THE GOVERNOR.**

Pursuant to the Constitution I submit the following statement of the expenditure of all moneys belonging to the State and by me paid out to the State Treasurer:

Received from United States government, account

Soldiers' Home—

February 2, 1905.....	\$ 1,500.00	
April 5.....	250.00	
April 29.....	1,650.00	
October 2.....	487.50	
November 10.....	1,650.00	
January 31, 1906.....	1,750.00	
March 21.....	1,137.50	
May 9.....	1,175.00	
August 7.....	1,183.33	
October 31.....	1,775.00	
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		\$13,158.33

Received from insurance Reform School—

October 11, 1905.....	\$ 1,223.94	1,223.94
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Received from United States government, account five per cent public land sales—

December 23, 1905.....	15,400.33	
November 12, 1906.....	20,883.09	
		<hr/>
	\$36,283.42	36,283.42

<b>Total .....</b>	<b>\$50,665.69</b>	
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